

**Town of Georgetown -- Appeal  
Department Order #13-09, Mandatory Shoreland Zoning Act**

**Appeal by Town of Georgetown Exhibit B**  
**• Ordinance adopted by Town (03/11/09)**

# SHORELAND ZONING ORDINANCE

## for the Town of Georgetown, Maine

Adopted 11 March 2009

Proposed for amendment 13 June 2009 words added are underscored, those deleted, ~~struck through~~

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**1 PURPOSES.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions, to prevent and control water pollution, to protect fish spawning grounds, aquatic life, and bird and other wildlife habitat, to protect buildings and lands from flooding and accelerated erosion, to protect archaeological and historic resources, to protect commercial fishing and maritime industries, to protect freshwater and coastal wetlands, to control building sites, placement of structures, and land uses, to conserve shore cover and visual as well as actual points of access to inland and coastal waters, to conserve natural beauty and open space, and to anticipate and respond to the impacts of development in shoreland areas

**2 AUTHORITY.** This Ordinance has been prepared in accordance with the provisions of 38 MRSA §§ 435-449

**3. APPLICABILITY.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action, or upland edge of a freshwater wetland, and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream

This Ordinance also applies to any structure built on, over, or abutting a dock, wharf, or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland

**4. EFFECTIVE DATE AND REPEAL OF FORMERLY ADOPTED ORDINANCE.** This Ordinance repeals the Ordinance first adopted 9 March 1974 and last amended 16 June 2007 This Ordinance shall not be effective unless approved by the Commissioner of the Maine Department of Environmental Protection (MeDEP) A certified copy of the Ordinance, attested and signed by the Town Clerk, shall be forwarded to the Commissioner for approval If the Commissioner fails to act on this Ordinance within 45 days of its receipt, it shall be automatically approved Any application for a permit submitted to the Town within the 45-day period shall be governed by the terms of this Ordinance if the Ordinance is thereafter approved by the Commissioner

**5. AVAILABILITY.** A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public Copies shall be made available to the public at reasonable cost at the expense of the person making the request Notice of availability of this Ordinance shall be posted

**6 SEVERABILITY** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance

**7. CONFLICT WITH OTHER ORDINANCES.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation, or statute administered by the Town, the more restrictive provision shall control

**8. AMENDMENTS.** This Ordinance may be amended by majority vote at Town Meeting Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the MeDEP following adoption by Town Meeting and shall not be effective unless approved by the Commissioner If the Commissioner fails to act on any amendment within 45 days of its receipt, the amendment is automatically approved Any application for a permit submitted to the municipality within the 45-day period shall be governed by the terms of the amendment if the amendment is thereafter approved by the Commissioner

#### **9. ZONING DISTRICTS AND ZONING MAP.**

**A Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following zoning districts (see Section 13 below) as shown on the Official Shoreland Zoning Map, which is made a part of this Ordinance

- (1) Resource Protection
- (2) Limited Residential

- (3) General Development
- (4) Commercial and Maritime Activities

The criteria for placing areas in one of these districts are contained in Section 13 below. Areas in Resource Protection because of the FEMA 100-year flood plains are not shown on the Georgetown Shoreland Zoning map. These areas may be substantial and may occur in each of the other shoreland zones. The most recent FEMA Flood Insurance Rate Maps shall be used to determine the 100-year floodplains.

**B. Scale of the Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than 1 inch = 2,000 feet. District boundaries shall be clearly delineated and a legend indicating the symbol for each district shall be placed on the map.

**C. Certification of the Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located for public access in the Town Office.

**D. Changes to the Map.** If amendments are made in the district boundaries or other matters shown on the Official Shoreland Zoning Map, in accordance with Section 8, such changes shall be made on the Official Shoreland Zoning Map within 30 days after they have been approved by the Commissioner of the MeDEP.

**10. INTERPRETATION OF DISTRICT BOUNDARIES.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads, and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

**11. LAND USE REQUIREMENTS.** Except as hereinafter specified, no building, structure, or land shall be used or occupied, and no building or structure or part thereof shall be erected, constructed, expanded, moved, or altered, and no new lot shall be created except in conformity with all of the regulations specified for the district in which it is located, unless a variance is granted.

**12. NON-CONFORMANCE.** For the purposes of this section, the effective date of the Ordinance is 9 March 1974, including any subsequent amendments. Any non-conforming condition lawfully existing prior to the adoption of this Ordinance shall not by reason solely of such adoption be deemed an unlawful condition.

**A. Purpose.** It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions (as that term is defined in Section 17) and uses that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in this Section. Except, as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

**B. General.**

(1) **Transfer of Ownership.** Non-conforming conditions may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

(2) **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require.

**C. Non-conforming Structures**

(1) **Expansion.** A non-conforming structure may be added to or expanded with a permit from the Planning Board, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.

- (a) After 1 January 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30 percent or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12 C 3 below, and is less than the required setback from a water body, tributary stream, or wetland, the replacement structure may not be expanded if the original structure existing on 1 January 1989 had been expanded by 30 percent in floor area or volume since that date.

- (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 12 C 2 below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12 C 1 a above,

and the foundation does not cause the structure to be elevated by more than three additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure

(2) Relocation A non-conforming structure may be relocated within the boundaries of the lot on which it is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board and provided that the applicant demonstrates that the present subsurface waste-disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50 percent of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. Other woody and herbaceous vegetation and ground cover that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation was disturbed, damaged, or removed must be re-established within the setback area. The vegetation and/or ground cover must consist of native vegetation and/or ground cover similar to what was disturbed, destroyed, or removed.
- (b) Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

(3) Reconstruction or Replacement Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, damaged, or destroyed, regardless of cause, by more than 50 percent of the market value of the structure before such damage, destruction, or removal, may be reconstructed or replaced provided that a permit is obtained from the Planning Board within one year of the date of the damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body or wetland setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback, it shall not be any larger than the original structure, except as allowed pursuant to Section 12 C 1 above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the Planning Board determines that the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12 C 2 above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50 percent or less of its market value, or damaged or destroyed by 50 percent or less of its market value, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal. In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the Code Enforcement Officer shall consider, in addition to the criteria in Section 12 C 2 above, the physical condition and type of foundation present, if any.

(4) Change of Use of a Non-conforming Structure The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources, than the existing use. In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and

actual points of public access to waters, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses

#### **D. Non-conforming Uses.**

(1) **Expansions** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, with a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12 C 1 a above

(2) **Resumption Prohibited** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use, except that the Planning Board may, for good cause shown by the applicant, grant up to a one-year extension to that time period. This provision shall not apply to the resumption of the use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five-year period

(3) **Change of Use** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water-dependent uses in the Commercial and Maritime Activities District, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12 C 4 above

#### **E. Non-conforming Lots.**

(1) **Non-conforming Lots** A non-conforming lot of record as of the effective date of this Ordinance may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width, and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width, or shore frontage shall be obtained by action of the Board of Appeals

(2) **Contiguous Built Lots** If two or more contiguous lots or parcels are in a single or joint ownership of record as of the effective date of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State of Maine Subsurface Wastewater Disposal Rules and the Town Minimum Lot Size Ordinance are complied with

If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above referenced Rules and ordinance are complied with. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance

(3) **Contiguous Vacant or Partially Built Lots** If two or more contiguous lots or parcels are in single or joint ownership of record as of the effective date of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements. This provision shall not apply to two or more contiguous lots of record, at least one of which is non-conforming, owned by the same person or persons as of 9 March 1974, if the lot can accommodate a subsurface waste-disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and

(a) Each lot contains at least 100 feet of shore frontage and at least one acre of lot area, or

(b) Any lots that do not meet these frontage and lot size requirements are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and one acre of lot area

### **13. ESTABLISHMENT OF ZONING DISTRICTS AND CRITERIA.**

**A. Resource Protection District.** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the Shoreland Zone, except that areas that are currently developed as defined in this Ordinance and areas that meet the criteria for the Limited Residential, General Development, or Commercial and Maritime Activities Districts need not be included within the Resource Protection District

(1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes, and salt meadows, that are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MeDIF&W) and are depicted on a Geographic Information Systems data layer maintained by either the MeDEP or the MeDIF&W as of 1 May 2006,

(2) One-hundred-year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps,

*are no more defined in statute*

(3) Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not connected on the surface to a water body during the period of normal high water, and

(4) Those portions of Seguin Island and Perkins Island within the limits of the Shoreland Zone

**B. Limited Residential District.** The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, and areas which are used less intensively than those in the General Development District or the Commercial and Maritime Activities District.

**C. General Development District.** The General Development District includes the following types of existing, intensively developed areas:

(1) Areas of two or more contiguous acres devoted to commercial, industrial, or intensive recreational activities, or a mix of such activities, including but not limited to the following:

- (a) Areas devoted to manufacturing, fabricating, or other industrial activities,
- (b) Areas devoted to wholesaling, warehousing, retail trade, and service activities, or other commercial activities,
- (c) Areas devoted to intensive recreational development and activities, such as, but not limited to, amusement parks, race tracks, and fairgrounds, and
- (d) Areas devoted to mixed or combined patterns of paragraphs a through c above.

(2) Areas otherwise discernible as having patterns of intensive commercial, industrial, or recreational uses.

**Note:** Portions of the General Development District may also include residential development. However, no area shall be designated as a General Development District based solely on residential use.

(3) The following are the General Development Districts:

- (a) **GD-1 Five Islands:** Bounded on the northeast by the northeasterly boundary of the land designated as Lot 46, Tax Map U-13, as revised April 1, 1985, on the west by the limits of the Shoreland Zone as defined, and on the south by the southwesterly boundary of the land designated as Lot 56, Tax Map U-13.
- (b) **GD-2 Gott's Cove:** Bounded on the northwest by the northwesterly boundary of the land designated as Lot 9, Tax Map R-11, on the west by the limits of the Shoreland Zone as defined, and on the south by the southerly boundary of the land designated as Lot 33-A, Tax Map U-14.
- (c) **GD-3 Robinhood:** All the land designated as lot 22 on Tax Map U-17.
- (d) **GD-4 Bay Point:** Bounded on the north by the northerly boundary of the land designated as Lot 49, Tax Map U-1, on the east by the limits of the Shoreland Zone as defined, and on the south by the southerly boundary of the land designated as Lot 40, Tax Map U-1.
- (e) **GD-5 Harmon's Harbor:** Bounded on the north by the northerly boundary of the land designated as Lot 5, Tax Map U-10, on the west by the limits of the Shoreland Zone as defined, and on the south by the southerly boundary of the land designated as Lot 14, Tax Map U-10.
- (f) **GD-6 Route 127, Back River:** All the Shoreland Zone of Lot 17, Tax Map R-2, located southerly of the narrows between the upper and lower marsh on the east side of the property.

**D. Commercial and Maritime Activities District.** The Commercial and Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14, and other areas suitable for functionally water-dependent uses, taking into consideration such factors as:

- (1) Shelter from prevailing winds and waves,
- (2) Slope of the land within 250 feet, horizontal distance, of the shoreline,
- (3) Depth of the water within 150 feet, horizontal distance, of the shoreline,
- (4) Available support facilities including utilities and transportation facilities, and
- (5) Compatibility with adjacent upland uses.

**14. TABLE OF LAND USES.** All land use activities shall conform to all the applicable land use standards listed in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

#### **Key to the Table of Land Uses**

<b>yes</b>	Allowed (no permit required but the use must comply with all applicable land use standards )
<b>no</b>	Prohibited
<b>PB</b>	Allowed with permit issued by the Planning Board
<b>CEO</b>	Allowed with permit issued by the Code Enforcement Officer
<b>LPI</b>	Allowed with permit issued by the Local Plumbing Inspector
<b>RP</b>	Resource Protection
<b>GD</b>	General Development
<b>LR</b>	Limited Residential
<b>CMA</b>	Commercial and Maritime Activities



**Table 1: Land Uses in the Shoreland Zone**

land uses	districts			
	RP	LR	GD	CMA
1 Non-intensive recreational uses not requiring structures such as hunting, fishing, and hiking	yes	yes	yes	yes
2 Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes
3 Forest management activities except for timber harvesting and land management roads	yes	yes	yes	yes
4 Timber harvesting	CEO	CEO	yes	yes
5 Clearing or removal of vegetation for activities other than timber harvesting	CEO <sup>1</sup>	CEO <sup>1</sup>	yes	yes
6 Fire prevention activities	yes	yes	yes	yes
7 Wildlife management activities	yes	yes	yes	yes
8 Soil- and water-conservation activities	yes	yes	yes	yes
9 Mineral exploration	yes <sup>2</sup>	yes <sup>2</sup>	yes <sup>2</sup>	yes <sup>2</sup>
10 Mineral extraction, including sand and gravel extraction	PB <sup>3</sup>	PB	PB	PB
11 Surveying and resource analysis	yes	yes	yes	yes
12 Emergency operation	yes	yes	yes	yes
13 Agriculture	PB	yes	yes	yes
14 Aquaculture	PB	PB	yes	yes
15 Principal structures and uses				
a One- and two-family residential, including driveways	PB <sup>4</sup>	PB	PB	no
b Multi-unit residential	no	PB	PB	no
c Commercial	no <sup>5</sup>	no <sup>5</sup>	PB	PB <sup>6</sup>
d Industrial	no	no	PB	PB <sup>6</sup>
e Governmental and institutional	no	PB	PB	PB <sup>6</sup>
f Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB	CEO	CEO	PB <sup>6</sup>
16 Structures accessory to allowed uses	PB	CEO	CEO	CEO
17 Expansion or relocation of any non-conforming structure	PB	PB	PB	PB
18 Reconstruction of any non-conforming structure lost or destroyed by greater than 50 percent	PB	PB	PB	PB
19 Reconstruction of any non-conforming structure lost or destroyed by 50 percent or less	CEO <sup>7</sup>	CEO <sup>7</sup>	CEO <sup>7</sup>	CEO <sup>7</sup>
20 Piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high water line or within a wetland				
a Temporary	CEO	CEO	CEO	CEO
b Permanent	PB	PB	PB	PB <sup>6</sup>
21 Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	no
22 Home occupations	yes	yes	yes	yes
23 Private sewage-disposal systems for allowed uses	LPI	LPI	LPI	LPI
24 Essential services				
a Roadside distribution lines (34.5kV and lower)	CEO <sup>7</sup>	yes <sup>8</sup>	yes <sup>8</sup>	yes <sup>8</sup>
b Non-roadside or cross-country distribution lines with 10 poles or fewer in the shoreland zone	PB <sup>7</sup>	CEO	CEO	CEO
c Non-roadside or cross-country distribution lines with 11 or more poles in the shoreland zone	PB <sup>7</sup>	PB	PB	PB
d Other essential services	PB <sup>7</sup>	PB	PB	PB
25 Service drops, as defined, to allowed uses	yes	yes	yes	yes
26 Public and private recreational areas involving minimal structural development	PB	PB	CEO	CEO <sup>9</sup>
27 Individual, private campsites	CEO	CEO	CEO	CEO
28 Campgrounds	no <sup>9</sup>	PB	PB	no
29 Road construction	no <sup>10</sup>	PB	PB	PB <sup>6</sup>
30 Land management roads	PB	yes	yes	yes
31 Parking facilities	no <sup>9</sup>	PB	PB	PB <sup>6</sup>
32 Mannas	no	PB	PB	PB
33 Filling and earth-moving of less than 10 cubic yards	CEO	yes	yes	yes
34 Filling and earth-moving of more than 10 cubic yards	PB	CEO	CEO	CEO
35 Signs	yes	yes	yes	yes
36 Uses similar to allowed uses (i.e., uses not requiring a permit)	CEO	CEO	CEO	CEO
37 Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
38 Uses similar to uses requiring a PB permit	PB	PB	PB	PB
39 Small wind-energy systems	no	CEO	CEO	CEO

1 In RP not allowed within 75 feet, horizontal distance, of the normal high-water line, except to remove safety hazards

2 Requires CEO permit if more than 100 square feet of surface area, in total, is disturbed

3 In RP not allowed in areas so designated because of wildlife value

4 Single-family residential structures may be allowed by special exception only according to Section 15 B. Two-family residential structures are prohibited

5 Except for commercial uses otherwise listed in this Table, such as mannas and campgrounds, that are allowed in the respective district

6 Functionally water-dependent uses and uses accessory to such water-dependent uses only

7 See further restrictions in Section 15 J.2

8 Permit not required, but applicant must file a written "notice of intent to construct" with the CEO

9 Except when area is zoned for resource protection due to floodplain criteria, in which case a PB permit is required

10 Except as provided in Section 15 F 4

Note A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 MRSA § 480-C, if the activity occurs in, on, over, or adjacent to any freshwater or coastal wetland, great pond, river, stream, or brook and operates in such a manner that material or soil may be washed into them

- a Dredging, bulldozing, removing, or displacing soil, sand, vegetation, or other materials
- b Draining or otherwise dewatering
- c Filling, including adding sand or other material to a sand dune, or
- d Any construction or alteration of any permanent structure

**15. LAND USE STANDARDS.** All land use activities within the Shoreland Zone shall conform to the following provisions, if applicable

**A. Minimum Lot Standards.** Lots for each principal structure, as defined, shall comply with the provisions of the Georgetown Minimum Lot Size Ordinance. In addition, they shall meet the following requirements

*minimum shore frontage (feet)*

(1) (a) Residential, per dwelling unit

- |   |     |
|---|-----|
| (i) Within the Shoreland Zone, adjacent to tidal areas      | 150 |
| (ii) Within the Shoreland Zone, adjacent to non-tidal areas | 200 |

(b) Governmental, Institutional, Commercial, or Industrial, per principal structure

- |   |      |
|---|------|
| (i) Within the Shoreland Zone, adjacent to tidal areas, exclusive of areas zoned for Commercial and Maritime Activities | 200  |
| (ii) Within the Shoreland Zone, adjacent to tidal areas zoned for Commercial and Maritime Activities                    | none |
| (iii) Within the Shoreland Zone, adjacent to non-tidal areas  | 300  |

(c) Recreational Facilities, Public and Private, within the Shoreland Zone, adjacent to tidal and non-tidal areas 200

(2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two lots shall not be included toward calculating minimum lot size

(3) Lots located on opposite sides of a public or private road shall be considered separate lots unless the road was established by the owner of land on both sides thereof after 22 September 1971

(4) The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use

(5) If more than one residential dwelling unit, principal governmental, institutional, commercial, or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use

**B. Principal and Accessory Structures.**

(1) All new principal and accessory structures shall be set back at least 75 feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland, except that

- (a) in the General Development District the setback from the normal high-water line shall be at least 25 feet, horizontal distance,
- (b) in the Commercial and Maritime Activities District there shall be no minimum setback, and
- (c) in the Resource Protection District the minimum setback shall be as given in Section 15 B 4

(2) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on coastal bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluffs Map. If the applicant and the permitting official(s) disagree as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of a bluff is located, the applicant may at his or her expense employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals

(3) No structures shall be allowed in areas of steep slopes as identified on the Official Shoreland Zoning Map

(4) **Resource Protection District** In the Resource Protection District the shore setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces, or other regulated objects specifically allowed in that district, in which case the setback requirements specified below shall apply

<i>shore frontage (feet)</i>	<i>setback (feet)</i>	<i>shore frontage (feet)</i>	<i>setback (feet)</i>
200	250	301-310	195
201-210	245	311-320	190
211-220	240	321-330	185
221-230	235	331-340	180
231-240	230	341-350	175
241-250	225	351-360	170
241-260	220	361-370	165
261-270	215	371-380	160
271-280	210	381-390	155
281-290	205	391-400	150
291-300	200	401 or more	150

**Special Exceptions.** In addition to the criteria specified above, excepting structure setback requirements, the Planning Board may approve a permit for a single-family residential structure in a Resource Protection District provided that the applicant demonstrates that all the following conditions are met

- (a) There is no location on the lot, other than a location within the Resource Protection District, where the structure can be built,
- (b) The lot on which the structure is proposed is undeveloped and was established and recorded in the Sagadahoc County Registry of Deeds before 18 November 1993,
- (c) All proposed buildings, sewage disposal systems, and other improvements are
  - (i) Located on natural ground slopes of less than 20 percent, and
  - (ii) Located outside the floodway of the 100-year floodplain along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the FEMA Flood Insurance Rate Maps, all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation, and the development is otherwise in compliance with the Georgetown Floodplain Management Ordinance. If the floodway is not shown on the FEMA maps, it is deemed to be half the width of the 100-year floodplain
- (d) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance

(5) All structures except functionally water-dependent structures are set back from the normal high-water line of a water body, tributary stream, or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands

(6) The water body, tributary stream, or wetland setback provision shall not apply to structures that require direct access to the water body or wetland as an operational necessity, such as piers, docks, and retaining walls, or to other functionally water-dependent uses.

(7) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream, or wetland setbacks, the Planning Board may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed 80 square feet in area and eight feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure

(8) In all districts, principal and accessory structures and expansions of existing structures which are permitted and intended for residential use shall not exceed 35 feet in height as measured from the mean original grade at the downhill side of the structure. This provision shall not apply to structures such as chimneys, flagpoles, antennas, and similar structures having no floor area

(9) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or, in the absence of these, the flood as defined by soil types identified as recent floodplain soils. Georgetown participates in the National Flood Insurance Program, and accessory structures may be placed in accordance with the standards of the Floodplain Management Ordinance and need not meet the elevation requirements of this paragraph.

(10) The total footprint area of all structures, parking lots, and other non-vegetated surfaces within the Shoreland Zone shall not exceed 20 percent of the lot or the portion thereof located within the Shoreland Zone, including land area previously developed, except in the General Development and Commercial and Maritime Activities Districts adjacent to tidal waters, where lot coverage shall not exceed 70 percent.

(11) All newly constructed, relocated, or expanded principal or accessory structures shall meet the following minimum setback requirements relative to the centerline of roads and lot lines:

- |  |         |
|--|---------|
| (a) centerline of any public road or common road <u>in an approved subdivision</u> | 50 feet |
| (b) <u>centerline of any private road</u>  | 30 feet |
| (c) <u>all lot lines</u>   | 20 feet |
| (d) <u>any cemetery</u>  | 25 feet |

(12) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill, provided all the following conditions are met:

- (a) The site has been previously altered and an effective vegetated buffer does not exist,
- (b) The walls are at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland,
- (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings,
- (d) The total height of the walls, in the aggregate, is no more than 24 inches,
- (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on FEMA Flood Insurance Rate Maps, or the flood of record, or, in the absence of these, by soil types identified as recent flood plain soils,
- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks, and
- (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
  - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking, the area must be supplemented with leaf or bark mulch,
  - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of storm water runoff,
  - (iii) Only native species may be used to establish the buffer area,
  - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland, and
  - (v) A footpath not to exceed the standards in Section 15 N 2 a, below, may traverse the buffer.

(13) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils, provided that the structure is limited to a maximum of four feet in width, that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the MeDEP pursuant to the Natural Resources Protection Act, 38 MRSA § 480-C), and that the applicant demonstrates that no reasonable access alternative exists on the property.

#### **C. Piers, Docks, Wharves, Bridges, and Other Structures, and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland.**

(1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

(2) The location shall not interfere with existing developed or natural beach areas.

(3) The facility shall be located so as to minimize adverse effects on fisheries.

(4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock, or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.

(5) No new structure shall be built on, over, or abutting a pier, wharf, dock, or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity

(6) New permanent piers and docks on non-tidal waters shall not be permitted unless the applicant clearly demonstrates that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act

(7) No existing structures built on, over, or abutting a pier, dock, wharf, or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district

(8) Except in the General Development District and Commercial and Maritime Activities District, structures built on, over, or abutting a pier, wharf, dock, or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock, or other structure

#### **D. Campgrounds.**

(1) Commercial campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following

- (a) Campgrounds shall contain a minimum of 5,000 square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation and land below the normal high-water line of a water body shall not be included in calculating land area per site
- (b) The areas intended for placement of a recreational vehicle, tent, or shelter, and utility and service buildings shall be set back seventy-five feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland

(2) Individual private campsites not associated with campgrounds are allowed provided the following conditions are met

- (a) One campsite per lot existing on the effective date of this Ordinance, or 30,000 square feet of lot area within the Shoreland Zone, whichever is less, may be permitted
- (b) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 100 feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and 75 feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland
- (c) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle
- (d) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to 1,000 square feet
- (e) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or landowner is required
- (f) When a recreational vehicle, tent, or similar shelter is placed on-site for more than 120 days per year, all requirements for residential structures shall be met, including the installation of a subsurface waste-disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities

#### **E. Parking Areas.**

(1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial and Maritime Activities District parking areas shall be set back at least 25 feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat-launching facilities in districts other than the General Development District and Commercial and Maritime Activities District shall be no less than 50 feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream

(2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm-water runoff from flowing directly into a water body, tributary stream, or wetland and, where feasible, to retain all runoff on-site

(3) In determining the appropriate size of proposed parking facilities, the following shall apply

- (a) a typical parking space shall be approximately 10 feet wide and 20 feet long, except that parking spaces for a vehicle and boat trailer shall be 40 feet long,
- (b) internal travel aisles shall be approximately 20 feet wide

**F. Roads and Driveways** The following standards shall apply to the construction of roads and driveways and drainage systems, culverts, and other related features

(1) Roads and driveways shall be set back at least 75 feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no reasonable alternative exists, the road and driveway setback requirement shall be no less than 50 feet, horizontal distance, upon clear showing in writing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland. On slopes of greater than twenty percent, the road or driveway setback shall be increased by 10 feet, horizontal distance, for each five percent increase in slope above twenty percent. This paragraph does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of this paragraph except for that portion of the road or driveway necessary for direct access to the structure.

(2) Existing public roads may be expanded within the legal right of way regardless of their setback from a water body, tributary stream, or wetland.

(3) New roads and driveways are prohibited in a Resource Protection District, except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within it. A road or driveway may also be permitted in a Resource Protection District upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District, it shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

(4) Road and driveway banks shall be no steeper than a slope of two horizontal to one vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control in Section 15 O below.

(5) Road and driveway grades shall be no greater than 10 percent except for segments of less than 200 feet.

(6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams, or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least 50 feet plus two times the average slope in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

(7) Ditch relief (cross drainage) culverts, drainage dips, and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

- (a) Ditch relief culverts, drainage dips, and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

<i>grade (percent)</i>	<i>spacing (feet)</i>	<i>grade (percent)</i>	<i>spacing (feet)</i>
0-2	250	11-15	80-60
3-5	200-135	16-20	60-45
6-10	100-80	21+	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is 10 percent or less.
- (c) On sections having slopes greater than 10 percent, ditch relief culverts shall be placed at an angle approximately 30 degrees down slope from a line perpendicular to the centerline of the road or driveway.
- (d) Ditch relief culverts shall be sufficiently sized and properly installed to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.
- (e) Ditches, culverts, bridges, dips, water turnouts, and other storm-water runoff control installations shall be maintained on a regular basis to assure effective functioning.

- (8) Any private road or driveway must be set back 25 feet from any cemetery

**G. Signs** The following provisions shall govern the use of signs in the Resource Protection and Limited Residential Districts

(1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six square feet in area and shall not exceed two signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

(2) Name signs are allowed, provided such signs shall not exceed two signs per premises, and shall not exceed 12 square feet in the aggregate.

(3) Residential users may display a single sign not over three square feet in area relating to the sale, rental, or lease of the premises.

(4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two square feet in area.

(5) Signs relating to public safety shall be allowed without restriction.

(6) No sign shall extend higher than 20 feet above the ground.

(7) Signs may be illuminated only by shielded, non-flashing lights.

**H. Storm-Water Runoff.**

(1) All new construction and development shall be designed to minimize storm-water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of storm waters.

(2) Storm-water runoff control systems shall be maintained as necessary to ensure proper functioning.

**I. Septic Waste Disposal.** All subsurface waste-disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

(1) Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions shall not extend closer than 75 feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland, and

(2) A holding tank is not allowed for a first-time residential use in the Shoreland Zone.

(3) Abandoned treatment, storage, and transfer facilities shall be disconnected from the building, pumped out, and filled with earth.

**J. Essential Services.**

(1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

(2) The installation of essential services, other than roadside distribution lines, is not allowed in a Resource Protection District, except to provide services to a permitted use within the district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

(3) Damaged or destroyed public utility transmission and distribution lines, towers, and related equipment may be replaced or reconstructed without a permit.

**K. Mineral Exploration and Extraction.**

(1) Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than 100 square feet of ground surface. A permit from the Planning Board shall be required for mineral exploration which exceeds this limitation. All excavations, including test pits and holes, shall be immediately capped, filled, or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

(2) Mineral extraction may be permitted under the following conditions:

- (a) A reclamation plan shall be filed with, and approved by, the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of this Section.

- (b) No part of any extraction operation, including drainage and runoff control features, shall be permitted within 75 feet, horizontal distance, of the normal high-water line of any water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within 50 feet, horizontal distance, of any property line without written permission from the owner of the adjacent lot.
- (c) Within 12 months following the completion of extraction operations at any extraction site, which have been deemed complete (where complete is defined as when less than 100 cubic yards of materials have been removed in any consecutive 12-month period), ground levels and grades shall be established in accordance with the following:
  - (i) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
  - (ii) The final graded slope shall be two and one-half to one or flatter.
  - (iii) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (d) In keeping with the purposes of this Ordinance, the Planning Board shall impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

#### **L. Agriculture.**

(1) All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on 1 November 2001, and the Nutrient Management Law (7 MRSA §§ 4201-4209).

(2) Manure shall not be stored or stockpiled within 75 feet, horizontal distance, of water bodies, tributary streams, or wetlands. All manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

(3) Agricultural activities involving tillage of soil greater than forty thousand square feet in surface area within the Shoreland Zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of the plan shall be considered a violation of this Ordinance.

(4) There shall be no new tilling of soil within 75 feet, horizontal distance, from water bodies and coastal wetlands, nor within twenty-five feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.

(5) Newly established livestock grazing areas shall not be permitted within 75 feet, horizontal distance, of water bodies and coastal wetlands, nor within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, which are not in conformance with the above setback provisions, may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

#### **M. Timber Harvesting.** Timber harvesting shall conform to the following provisions:

(1) Selective cutting of no more than 40 percent of the total volume of trees four inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten-year period is permitted. In addition:

- (a) Within 75 feet, horizontal distance, of the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other natural vegetation, including existing ground cover, shall be maintained.
- (b) At distances greater than 75 feet, horizontal distance, of the normal high-water line of water bodies or the upland edge of a wetland, harvesting operations shall not create single clear-cut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet, they shall be at least 100 feet, horizontal distance, apart. Such clear-cut openings shall be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

(2) Timber harvesting operations exceeding the 40 percent limitation in paragraph 1 above may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within 14 days of its decision.

(3) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line of water body. In all other areas, slash shall either be removed or disposed of in such a manner that it lies on the



ground and no part thereof extends more than four feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.

(4) Timber harvesting equipment shall not use stream channels as travel routes except when

- (a) Surface waters are frozen, and
- (b) The activity will not result in any ground disturbance.

(5) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock, or similar hard surface which would not be eroded or otherwise damaged.

(6) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

(7) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least 75 feet, horizontal distance, in width for slopes up to 10 percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each 10 percent increase in slope, the unscarified strip shall be increased by 20 feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than 25 feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

#### **N. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.**

(1) In any Resource Protection District and in any areas of steep slopes or unstable coastal bluffs, the cutting or removal of vegetation shall be limited to what is necessary for uses expressly authorized in the Resource Protection District.

(2) Except in areas as described in Section 15 M 1 a above, and except to allow for the development of permitted uses, within a strip of land extending 75 feet, horizontal distance, from any water body, tributary stream, or upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six feet in width as measured between tree trunks or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. Adjacent to water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 points per 25-foot-by-50-foot rectangular area as determined by this table:

<i>diameter of tree at 4-1/2 feet above ground level (inches)</i>	<i>points</i>	<i>diameter of tree at 4-1/2 feet above ground level (inches)</i>	<i>points</i>
2 - less than 4	1	8 - less than 12	4
4 - less than 8	2	12 or greater	8

The following shall govern in applying this point system.

- (i) The 25-foot-by-50-foot rectangular areas must be established where the landowner or lessee proposes clearing within the required buffer,
- (ii) Each successive plot must be adjacent to, but not overlap, a previous plot,
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance,
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance,
- (v) Where conditions permit, no more than 50 percent of the points on any 25-foot-by-50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this Section "other natural vegetation" is defined as retaining existing vegetation under three feet in height and other ground cover and retaining at least five saplings less than two inches in diameter at 4-1/2 feet above ground level for each 25-foot-by-50-foot rectangular area. If five saplings do not exist, no woody stems less than two inches in diameter can be removed until five saplings have been recruited into the plot.

Notwithstanding these provisions, no more than 40 percent of the total volume of trees four inches or more in diameter measured at 4 1/2 feet above ground level may be removed in any ten-year period

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15 N 2 a above
- (d) Pruning of tree branches on the bottom third of the tree is allowed
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present

This Section does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary

(3) At distances greater than 75 feet, horizontal distance, from the normal high-water line of any water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any 10-year period, selective cutting of not more than 40 percent of the volume of trees four inches or more in diameter measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40 percent calculation. For the purposes of these standards, volume may be considered equivalent to basal area. In no event shall cleared openings for any purpose, including, but not limited to, principal and accessory structures, driveways, lawns, and sewage disposal areas, exceed in the aggregate 25 percent of the lot area within the Shoreland Zone or 10,000 square feet, whichever is greater, including land previously cleared. This provision shall not apply to the General Development District and the Commercial and Maritime Activities District

(4) Legally existing non-conforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance

(5) Fields and other cleared openings which have reverted primarily to shrubs, trees, or other woody vegetation shall be regulated under the provisions of this Section

#### **O. Erosion and Sedimentation Control.**

(1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Planning Board for approval and shall include, where applicable, provisions for

- (a) Mulching and re-vegetation of disturbed soil
- (b) Temporary runoff control features such as hay bales, silt fencing, or diversion ditches
- (c) Permanent stabilization structures such as retaining walls or rip-rap

(2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible

(3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion

(4) Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine months of the initial date of exposure. In addition

- (a) Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established
- (b) Anchoring the mulch with netting, peg and twine, or other suitable method may be required to maintain the mulch cover
- (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences

(5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a 25-year storm or greater, and shall be stabilized with vegetation or lined with riprap

**P. Soils.** All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall

require a soils report based on an on-site investigation and prepared by State-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists, and other persons who have training and experience in recognizing and evaluating soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, and presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

**Q. Water Quality.** No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream, or wetland.

**R. Archaeological Site.** Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the Planning Board, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least 20 days prior to action being taken by the Planning Board. The Board shall consider comments received from the Commission prior to rendering a decision on the application.

## **16. Administration.**

### **A. Administering Bodies and Agents.**

(1) Code Enforcement Officer. A Code Enforcement Officer (CEO) and Assistant CEO shall be appointed or reappointed annually by 1 July.

(2) Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A MRSA § 2691.

(3) Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

(4) No town officer or member of the Board of Appeals or the Planning Board may serve as CEO, nor may the spouse of any such official.

**B. Permits Required.** No person shall engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur, or expand, change, or replace an existing use or structure, or renew a discontinued non-conforming use, without first obtaining a permit. See Section 14 above for a list of activities requiring permits and the appropriate permitting body for each of the zoning districts. A person who is issued a permit under this Ordinance shall have a copy of the permit posted in a visible place on site while the work authorized by the permit is performed.

(1) This ordinance shall apply to, but no permit is required for, the following:

- (a) a shelter for a small household pet, such as a cat or dog,
- (b) an accessory structure which does not exceed 100 square feet of floor area,  
Note: For non-conforming lots, see Section 12 E.
- (c) a temporary roadside stand used for sale of flowers, vegetables, fruit, or similar produce which does not exceed 100 square feet of floor area and which remains in place for less than 6 months in any period of 12 consecutive months,
- (d) roofs constructed without attachment to the ground and used exclusively to provide weather shelter to doorways or steps, and
- (e) temporary enclosures for the repair or maintenance for boats, equipment, or machinery.
- (f) the replacement of an existing road culvert as long as
  - (i) the replacement culvert is not more than 25 percent longer than the culvert being replaced,
  - (ii) the replacement culvert is not longer than 75 feet, and
  - (iii) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (g) an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved lists, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

(2) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

### **C. Permit Application.**

(1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the Town, to the appropriate official indicated in Section 14 above. The Code Enforcement Officer or

Planning Board may require the submission of whatever information is necessary to determine conformance with the provisions of this Ordinance

(2) All applications for permits from the Planning Board for work in a Resource Protection District or on a non-conforming structure shall be accompanied by proof that all of the owners of abutting land have been notified of the nature of the application including the general description and proposed location of the structure or activity as appropriate. The Planning Board shall not act on the application for a permit prior to 14 days after the date of notification to all abutters

(3) Applications for permits for construction, expansion, or modification of principal or accessory structures shall be on forms provided for this purpose and available from the Planning Board or Code Enforcement Officer. Fees for Georgetown building permits required under this Ordinance shall be the same as those required under the Building Permit Ordinance

(4) All applications for permits for new or relocated principal structures and for permits for expansions or modifications of existing principal structures which would result in an increase in the number of dwelling units or an increase in the volume of waste discharged to a subsurface waste-disposal system shall include written evidence of compliance with the Minimum Lot Size Ordinance

(5) All applications for newly constructed, placed, relocated, or expanded structures shall include evidence of compliance with the Floodplain Management Ordinance of the Town of Georgetown, if applicable

(6) All applications shall be signed by an owner or individual who can show evidence of right, title, or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for the permit, certifying that the information in the application is complete and correct

(7) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date of its receipt

(8) A valid plumbing permit or a completed application for a plumbing permit, including the site evaluation (HHE-200) approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface waste-disposal system

**D. Procedure for Administering Permits.** Within 30 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is complete or, if the application is incomplete, that specified additional material is needed to make it complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 30 days of receiving completed applications. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 30 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 30 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance. The applicant shall have the burden of proving that the proposed land-use activity is in conformity with the purposes and provisions of this Ordinance. After receipt of a completed application, the Planning Board shall approve an application or approve it with conditions if the Board makes a positive finding based on the information presented that the proposed use

- (1) Will maintain safe and healthful conditions,
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters,
- (3) Will adequately provide for the disposal of all wastewater,
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, or bird or other wildlife habitat,
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters,
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan,
- (7) Will not adversely affect existing commercial fishing or maritime activities,
- (8) Will not adversely affect known rare or endangered species on the site,
- (9) Will avoid problems associated with floodplain development and use, and
- (10) Is in conformance with the provisions of Section 15, Land Use Standards

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, regulation, or statute administered by the Town. The permit holder must mark the exact location of the structure on the site and have the Code Enforcement Officer verify that this location complies with the permit before beginning actual construction.

**E. Expiration of Permit.** Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the

issuance of the permit, the applicant shall have one additional year to complete the project structurally, at which time the permit shall expire

**F. Installation of Public Utility Services** A utility company of any kind may not install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate Town officials or other written arrangements have been made between Town officials and the utility

**G. Solid Waste Disposal:** Any contractor doing work under a building permit issued under this Ordinance must provide for private disposal of the construction waste produced as part of the work involved. Such construction waste will not be accepted at the Georgetown Transfer Station

#### **H. Appeals.**

- (1) **Powers and Duties of the Board of Appeals** The Board of Appeals shall have the following powers
  - (a) **Administrative Appeals** To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance, and to hear and decide administrative appeals on a de novo basis where an aggrieved party alleges that there is an error in order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision, or determination made, or failure to act, in the enforcement of this Ordinance is not appealable to the Board of Appeals
  - (b) **Variance Appeals** To authorize variances upon appeal, within the limitations set forth in this Ordinance
- (2) **Variance Appeals** Variances may be granted only under the following conditions
  - (a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, percent of lot coverage, and setback requirements
  - (b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance
  - (c) The Board of Appeals shall not grant a variance unless it finds that
    - (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought, and
    - (ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean
      - (aa) That the land in question cannot yield a reasonable return unless a variance is granted,
      - (bb) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood,
      - (cc) That the granting of a variance will not alter the essential character of the locality, and
      - (dd) That the hardship is not the result of action taken by the applicant or a prior owner
    - (iii) The proposed use would meet the requirements of Sections 16 D 1 through 9 if the variance were granted
  - (d) A condition of granting the variance shall be that any waiver or approval to use a nonconforming lot required by State law will be obtained by the grantee
  - (e) Notwithstanding Section 16 H 2 above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board of Appeals shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board of Appeals may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railings, walls, or roof systems necessary for the safety or effectiveness of the structure
  - (f) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed
  - (g) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the Board of Appeals to the Commissioner of the Department of Environmental Protection at least twenty days prior to action by the Board of Appeals. Any comments

received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals

- (h) If a variance is granted, no permit may be issued by the Planning Board or the Code Enforcement Officer unless it conforms to the terms of the variance

(3) **Administrative Appeals** When the Board of Appeals reviews a decision of the Code Enforcement Officer, the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals reviews a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may review only the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

**(4) Appeal Procedure**

**(a) Making an Appeal**

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Planning Board or Code Enforcement Officer, except for enforcement-related matters as described in Section 16 H 1 a above. Such an appeal shall be taken within 30 days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the 30-day requirement.
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which meets the requirements of the Board of Appeals Ordinance and which includes:
  - (aa) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
  - (bb) A sketch drawn to scale showing lot lines, location of existing buildings and structures, and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the Planning Board or Code Enforcement Officer shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within 35 days of its receipt of a complete written application, unless this time period is extended by the parties.
- (v) Hearings by the Board of Appeals shall be held and conducted in such a manner as to provide to every party the opportunity to present his or her case or defense by oral or documentary testimony, to submit rebuttal testimony, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

**(b) Decision by Board of Appeals**

- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
- (ii) The person filing the appeal shall have the burden of proof.
- (iii) The Board shall decide all administrative appeals and variance appeals within 35 days after the close of the hearing, and shall issue a written decision on all appeals.
- (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven days of its decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and Town officers.
- (v) When a decision by the Planning Board or Code Enforcement Officer is reversed, the Board of Appeals shall return the matter to the Planning Board or Code Enforcement Officer for issuance or denial of the permit.
- (vi) When a decision by the Planning Board or Code Enforcement Officer is reversed, the Board of Appeals may direct that the Planning Board or Code Enforcement Officer attach such conditions as are deemed necessary or proper to carry out the purposes of the Ordinance or as may be otherwise necessary to protect and preserve the public's health, safety, and general welfare.

(5) **Appeal to Superior Court** Except as provided by 30-A MRSA § 2691 3 F, any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within 45 days from the date of any decision of the Board of Appeals

(6) **Reconsideration** In accordance with 30-A MRSA § 2691 3 F, the Board of Appeals may reconsider any decision within 45 days of its prior decision. A request to the Board to reconsider a decision must be filed within 10 days of the decision that is being reconsidered. A vote to reconsider and action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony. Appeal of a reconsidered decision to Superior Court must be made within 15 days after the decision on reconsideration.

#### **I. Enforcement.**

(1) **Nuisances** Any violation of this Ordinance shall be deemed to be a nuisance.

(2) **Code Enforcement Officer**

- (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the Town officers and be maintained as a permanent record.
- (b) The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality in the Department of Environmental Protection.

(3) **Legal Actions** When the action above does not result in the correction or abatement of the violation or nuisance condition, the Selectmen, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town. The Selectmen or their authorized agent are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized Town official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

(4) **Fines** Any person, including but not limited to a landowner, a landowner's agent, or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A MRSA § 4452.

#### **17 Definitions.**

**Abutter** - an owner of land that is contiguous with, separated only by a public or private road from, or no more than 75 feet from, property for which a permit or variance is required under this Ordinance.

**Abutting land** - land owned by an abutter.

**Accessory structure or use** - use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**Aggrieved party** - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance, a person whose land abuts land for which a permit or variance has been granted, or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance

**Agriculture** - the production, keeping, or maintenance for sale or lease, of plants and/or animals, including but not limited to forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables, and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities

**Aquaculture** - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species

**Basal area** - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark

**Basement** - any portion of a structure with a floor-to-ceiling height of six feet or more and having more than 50 percent of its volume below the existing ground level

**Boat launching facility** - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers

**Campground** - any area or tract of land to accommodate one or more parties in temporary living quarters, including, but not limited to, tents, recreational vehicles, or other shelters

**Canopy** - the more or less continuous cover formed by tree crowns in a wooded area

**Coastal wetland** - all tidal and subtidal lands, all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt-water or estuarine habitat, and any swamp, marsh, bog, beach, flat, or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes

**Note** All areas below the maximum spring tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows

**Commercial use** - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units

**Developed area** - those areas as of 18 November 1993 which include the actual specific developed area such as an established principal structure and associated accessory structures (including driveways, gardens, and mowed areas but not including any undeveloped areas that may be on the lot), or areas already approved for subdivision or development, or for which there is a valid State-approved wastewater disposal design

**Development** - a change in land use involving alteration of the land, water, or vegetation, or the addition or alteration of structures or other construction not naturally occurring

**Dimensional requirements** - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage, and height.

**Disability** - any disability, infirmity, malformation, disfigurement, congenital defect, or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions, or illness, and the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or, in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation, or related services

**Disruption of shoreline integrity** - the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified, and/or rutted soil, an abnormal channel or shoreline cross-section, and, in the case of flowing waters, a profile and character altered from natural conditions

**Driveway** - a vehicular access-way serving one or two single-family dwellings or one multi-family dwelling (see Road)

**Emergency operations** - operations conducted for the public health, safety, or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property, and livestock from the threat of destruction or injury



**Essential services** - gas, electrical, or communication facilities, steam, fuel, electric power, or water transmission or distribution lines, towers, and related equipment, telephone cables or lines, poles, and related equipment, gas, oil, water, slurry or other similar pipelines, municipal sewage lines, collection or supply systems, and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services

**Expansion of a structure** - an increase in the floor area or volume of a structure, including all extensions such as, but not limited to, attached decks, garages, porches, stairways, and greenhouses

**Expansion of use** - the addition of one or more months to a use's operating season, or the use of more floor area or ground area devoted to a particular use

**Family** - one or more persons occupying a premises and living as a single housekeeping unit

**Floodway** - a channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height

**Floor area** - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks

**Forest management activities** - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation, or maintenance of roads

**Forested wetland** - a freshwater wetland dominated by woody vegetation that is six meters tall (approximately 20 feet) or taller

**Forest stand** - a contiguous group of trees sufficiently uniform in age, class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit

**Foundation** - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick, or similar material

**Freshwater wetland** - freshwater swamps, marshes, bogs, and similar areas, other than forested wetlands, which are

1 of 10 or more contiguous acres, or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream, or brook, such that in a natural state, the combined surface area is in excess of 10 acres, and

2 inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition

**Functionally water-dependent uses** - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities (excluding recreational boat storage buildings), finfish and shellfish processing, fish storage and retail and wholesale fish-marketing facilities, waterfront dock and port facilities, shipyards and boat-building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters

**Grandfathering** - permitting a use or condition to continue because it existed prior to the adoption of regulations or ordinances limiting or precluding such use or condition. Grandfathering for a structure or use would expire two years after the structure or use ceased to exist or function as originally intended

**Ground cover** - small plants, fallen leaves, needles, and twigs, and the partially decayed organic matter of the forest floor

**Harvest area** - the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest

**Height of a structure** - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area

**High water** - See Normal high-water line

**Home occupation** - an occupation or profession which is customarily conducted on or in a residential structure or property and which (1) is clearly incidental to and compatible with the residential use of the property and surrounding residential uses, and (2) employs only family members residing in the home

**Increase in nonconformity of a structure** - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing non-conforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures

**Individual private campsite** - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed 10 individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fireplace, or tent platform

**Industrial** - refers to the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or the extraction of minerals

**Institutional** - a non-profit or quasi-public use, or an institution such as a church, library, public or private school, hospital, or municipally-owned or -operated building, structure, or land used for public purposes

**Land management road** - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads

**Licensed forester** - a forester licensed under 32 MRSA Chapter 76

**Lot area** - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland. See **Coastal wetland** and **Freshwater wetland** above

**Marina** - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops, and marine fuel service facilities

**Market value** - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels

**Mineral exploration** - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition

**Mineral extraction** - any operation within any 12-month period which removes more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transports the product removed away from the extraction site

**Minimum lot width** - the closest distance between the side lot lines of a lot. When only two lot lines extend into the Shoreland Zone, both lot lines shall be considered to be side lot lines.

**Multi-unit residential** - a residential structure containing two or more residential dwelling units.

**Native** - indigenous to the local forests.

**Non-conforming condition** - non-conforming lot, structure, or use which is allowed solely because it was in lawful existence at the effective date of this Ordinance (see Section 12).

**Non-conforming lot** - a single lot of record which, at the effective date of this Ordinance (see Section 12), does not meet the area, frontage, or width requirements of the district in which it is located.

**Non-conforming structure** - a structure which does not meet any one or more of the following dimensional requirements: setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the effective date of this Ordinance (see Section 12).

**Non-conforming use** - use of buildings, structures, premises, land, or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the effective date of this Ordinance (see Section 12).

**Normal high-water line (non-tidal waters)** - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water, or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. Note: Adjacent to tidal waters, setbacks are measured from the upland edge of the Coastal Wetland.

**Person** - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

**Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.**

**Temporary:** Structures which remain in or over the water for less than seven months in any period of 12 consecutive months.

**Permanent:** Structures which remain in or over the water for seven months or more in any period of 12 consecutive months.

**Principal structure** - A building or buildings which define the principal use of the premises. There may be more than one principal structure on a property.

**Principal use** - a use other than one which is wholly incidental or accessory to another use on the same premises.

**Public facility** - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

**Recent floodplain soils** - the following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Podunk	Medomak	Sunday	Charles
Lovewell	Suncook	Cornish	Limerick	Saco
Alluvial	Hadley	Rumney	Ondawa	Winooski

**Recreational vehicle** - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

**Residential dwelling unit** - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping, and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

**Residual stand** - a stand of trees remaining in the forest following timber harvesting and related activities.

**Riprap** - rocks, irregularly shaped, and at least six inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two units horizontal to one unit vertical or less

**River** - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth

**Note** The portion of a river that is subject to tidal action is a **Coastal Wetland**

**Road** - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined

**Salt marsh** - Areas of coastal wetland (most often along coastal bays) that support salt-tolerant species, and where at average high tide during the growing season the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed

**Salt meadow** - Areas of a coastal wetland that support salt-tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush, common three square occurs in fresher areas

**Service drop** - any utility line extension which does not cross or run beneath any portion of a water body provided that

(1) in the case of electric service

(a) the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way, and

(b) the total length of the extension is less than 1,000 feet

(2) in the case of telephone service

(a) the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

(b) the extension requiring the installation of new utility poles or placement underground is less than 1,000 feet

**Shore frontage** - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline

**Shoreland zone** - the land area located within 250 feet, horizontal distance, of the normal high-water line of any great pond or river, within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action, within 250 feet of the upland edge of a freshwater wetland, or within 75 feet, horizontal distance, of the normal high-water line of a stream

**Shoreline** - the normal high-water line, or upland edge of a freshwater or coastal wetland

**Shore setback** - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space, or other regulated object or area

**Skid road or skid trail** - a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation

**Slash** - the residue, e.g., tree tops and branches, left on the ground after a timber harvest

**Steep slopes** - areas of two or more contiguous acres with sustained slopes of 20 percent or greater

**Stream** - a free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or, if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area

**Structure** - anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences and poles, wiring, and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks and patios, antenna towers, and windmills. The term excludes fences and steps

**Substantial start** - completion of 30 percent of a permitted structure or use measured as a percentage of estimated total cost

**Subsurface sewage disposal system** - any system designed to dispose of waste or waste water on or beneath the surface of the earth, includes, but is not limited to septic tanks, disposal fields, grandfathered cesspools, holding tanks, pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes, does not include any discharge system licensed under 38 MRSA § 414, any surface waste-water disposal system, or any municipal or quasi-municipal sewer or waste-water treatment system

**Sustained slope** - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area

**Temporary** - lasting for up to seven continuous months

**Tidal waters** - all waters affected by tidal action during the maximum spring tide

**Timber harvesting** - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the Shoreland Zone on a lot that has less than two acres within the Shoreland Zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 N.

**Timber harvesting and related activities** - timber harvesting, the construction and maintenance of roads used primarily for timber harvesting, and other activities conducted to facilitate timber harvesting

**Tributary stream** - a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material, or bedrock, and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the Shoreland Zone of the receiving water body or wetland. Water setback requirements apply to tributary streams within the Shoreland Zone.

**Unstable coastal bluffs** - land areas adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs and identified as such on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluffs map.

**Upland edge of a wetland** - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt-tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation, or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six meters (approximately 20 feet) tall or taller.

**Vegetation** - all live trees, shrubs, and other plants including, without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

**Velocity zone** - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources.

**Volume of a structure** - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

**Water body** - any great pond, river, or stream.

**Water crossing** - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

**Wetland** - a freshwater or coastal wetland.

**Woody vegetation** - live trees or woody, non-herbaceous shrubs.